

Critical Use Exemption

Allocation Framework Discussion

Stakeholder Sessions

June 2003



Purpose of Meeting

- To describe many different possible options for allocating the critical use exemption
- To begin a conversation with interested stakeholders on the trade-offs involved
- To solicit input on additional options or factors to consider

We want this to be an informal meeting- please ask questions and offer input

Opportunities for Stakeholder Input

There are multiple opportunities to offer input:

- Stakeholder outreach sessions in
 - Washington, DC on June 16
 - Raleigh, NC on June 20
 - East Lansing, MI on June 20
 - Parlier, CA on June 25
 - Orlando, FL on June 25
- Wrap up session
 - Washington, DC on August 15
- Pick up the Phone and Give us a Call
 - Hodayah Finman, EPA/OAR, 202-564-2651
- Through formal comments on the Proposed Rule

Critical Use Exemption Process

- Unusual Process- both domestic and international approvals required
 - First, users applied to EPA to be considered
 - Then, EPA/USDA and others reviewed uses and nominated those we believed were consistent with the criteria
 - Next, international review committee composed of experts makes recommendations on country submissions
 - Then, Parties authorize uses and amounts for each country
 - Finally, EPA creates exempted consumption
- Annual Process

Thank You for Learning with Us

Timeline for Rulemaking (tentative)

By August 2003	EPA develops options, analyzes options, and writes rule
By September 2003	- Send proposed rule to the Office of Management and Budget (OMB) for review and interagency clearance; begin creating infrastructure for implementation
By December 2003	Publish proposed rule in Federal Register
February 2004	Comment period ends
March 2004	Reconcile comments
April 2004	Final rule sent to OMB
July 2004	Target FR publication of final rule
Summer and Fall 2004	Guidance on CUE compliance
January 1, 2005	CUE Compliance Period Begins

Questions Yet to be Answered

- The total amount, uses available for use in U.S...
- Restrictions on CUE cap
- Period of compliance
- Definition of "user"
- If have end user system, do allow for consumption only at time of redemption or do allow for upfront consumption

Type of Authorization

- can be either one amount for U.S. OR an amount for each sector OR an amount for each region of each sector...
- if Parties restrict it by sector etc., trading across those uses would NOT be permitted
- the broader the pool of methyl bromide, the lower cost to the industry overall BUT
- does it mean that each sector will not be guaranteed at least some amount of methyl bromide

Period of Compliance

- will Parties authorize one year or two year exemptions?
- if multiple years, allow for banking but would still be uncertain b/c must provide annual update to Parties

Pros and Cons of Open Policy Questions

Definition of User

- if more broad, may lower compliance costs and no need to demonstrate membership
- but what about the cost, time to apply

Upfront or Redeemable Production

- benefit to environment
- supply chain issues

Options

3 basic frameworks we would like to examine

- Each option can be constructed with many variations
- Each option would have somewhat different impact depending on answer to "open questions"

They Are:

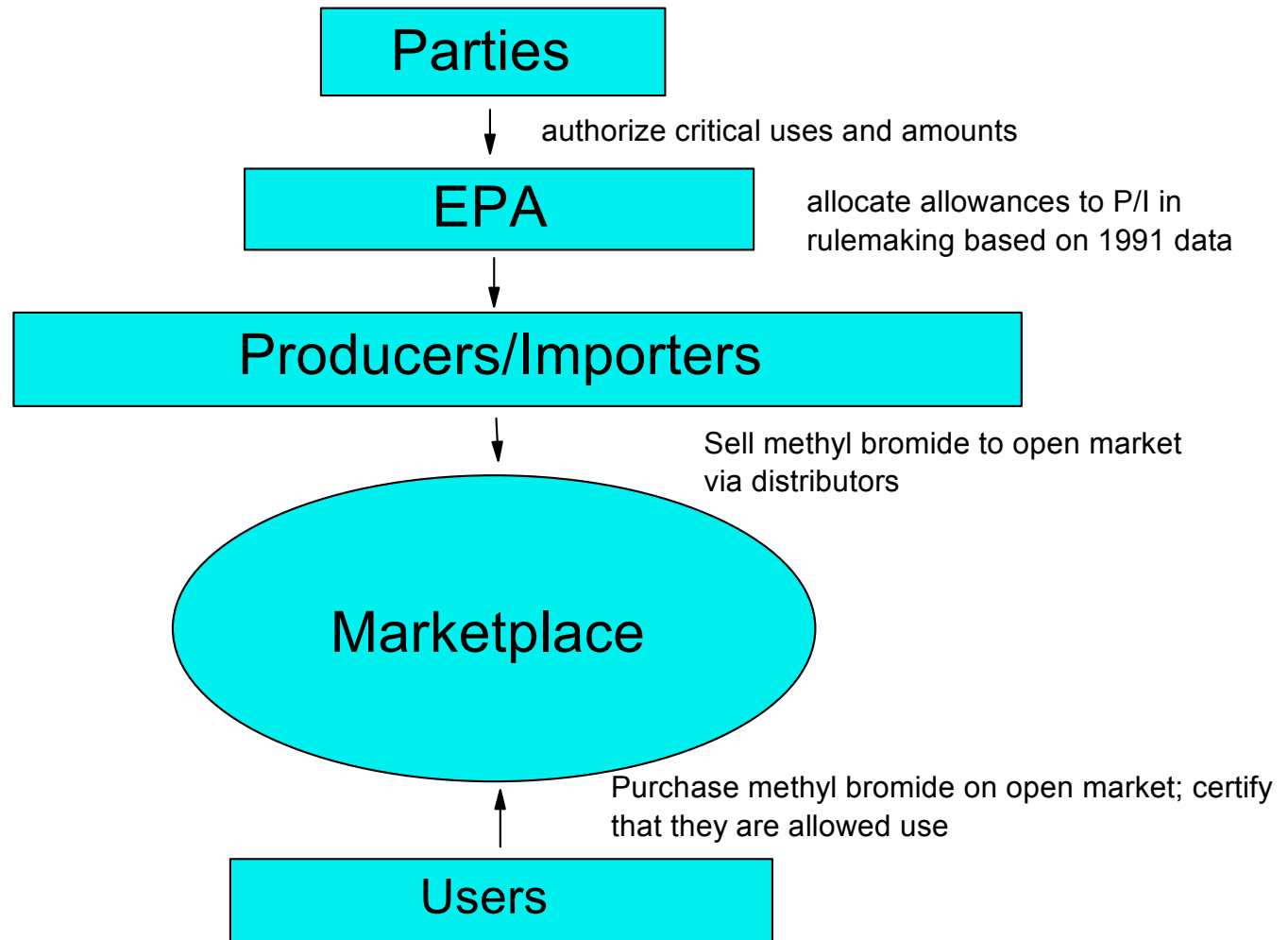
- QPS-Like Model
- QPS-Like Model PLUS Canada Like Model
- QPS-Like Model PLUS Auction Model

QPS-Like Model

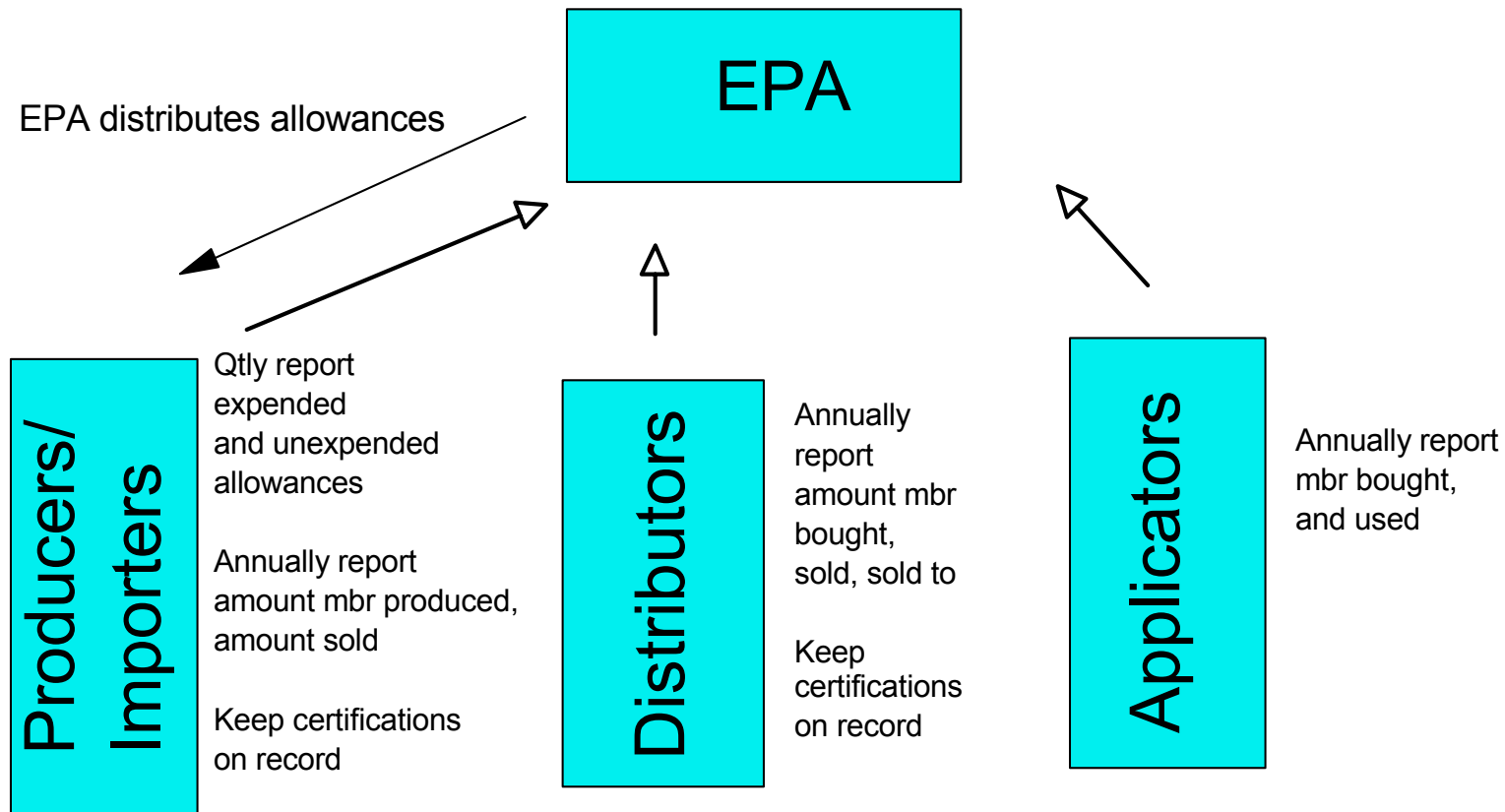
Structure:

- Works like existing phaseout regulations
 - cap production and import based on Parties authorization
- Adds self-certification element from QPS exemption
 - "users" must certify at time of purchase
- ***At a minimum, we are required to do at least this***

QPS Like Model: Distribution Of Allowances



QPS Like Model: Reporting and Tracking CUE Allowances



Elements of QPS Like Model:

Allowance holders:

Producers and importers

Trading:

Allow trading with .001 offset

Reporting:

Producers/Importers

- quarterly: expended and unexpended allowances
- annually: amount/type mbr created and sold

Distributors

- annually: amount/type mbr bought [and sold to]

[Applicators- optional element to track stockpiles]

- annually: amount/type mbr bought, and used

Recordkeeping:

Producers/Importers

- certification records from distributors, other direct sales stating that buyer will only sell and apply this material in accordance with CUE authorized uses

Distributors

- certification records from customers

Enforcement

- CAA penalties
- Additional FIFRA penalties at OPP discretion

Treatment of Stockpiles

- Report excess stockpiles to Parties

QPS-Like Model PLUS Canada Like Model

- Implements QPS-like model to create supply of mbr
- Adds additional regulation at user end by giving allowances to end users as well based on additional data submitted to EPA
- User allowances tracked with automated system to ease trading, ensure compliance

Canada Like Model

Program Element Options

Follows QPS with following Additions...

User Allowance Holder

- Individuals
- Consortia (not considered since many aren't even legal entities)
- States (not considered because unfunded mandate)

User Allowance Distribution

- Pro-rate Parties' authorization based on additional historic data
 - 3 to 5 years of Mbr use *or*
 - 3 to 5 years of acres planted/ cf treated *or*
 - 3 to 5 years lbs harvested/lbs commodity sold
- in all, use typical application rates drawn from U.S. nomination

User Allowance Trading

- Allow with .001 offset (require tracking system)

Redeeming User Allowances

- User allowance holder debit account and certify if tracking system

Reporting

- Follows QPS model except data is kept in tracking system with annual true up period

Recordkeeping

- Follows QPS model

QPS-Like Model PLUS Auction Model

- Implements QPS-like model to create supply of mbr
- Adds additional regulation at user end by auctioning allowances to end users at a premium determined by the market
- User allowances tracked with automated system to ease trading, ensure compliance

Auction Model: Program Element Options

Follows QPS and Canada Models with following Additions

Who Conducts Auction

- EPA *or*
- Paid contractor *or*
- Contractor under gratuitous service agreement

Auction Frequency

- Once annually in December *OR*
- Once annually in April *OR*
- Twice annually, December and April

Amount Auctioned

- Full amount *or*
- Full amount minus set aside

Set-Asides

- 10%- 50% held back from first auction for second auction *And/Or*
- small businesses or economically disadvantaged businesses (time & difficulty to establish)

Bid Type

- sealed with no reserve
- ascending (not considered b/c EPA can not set market price)
- descending (not considered b/c EPA can not set market price)

Who Bids vs. Who Holds Allowances

- any allowable user may bid; anyone may hold allowances through trading

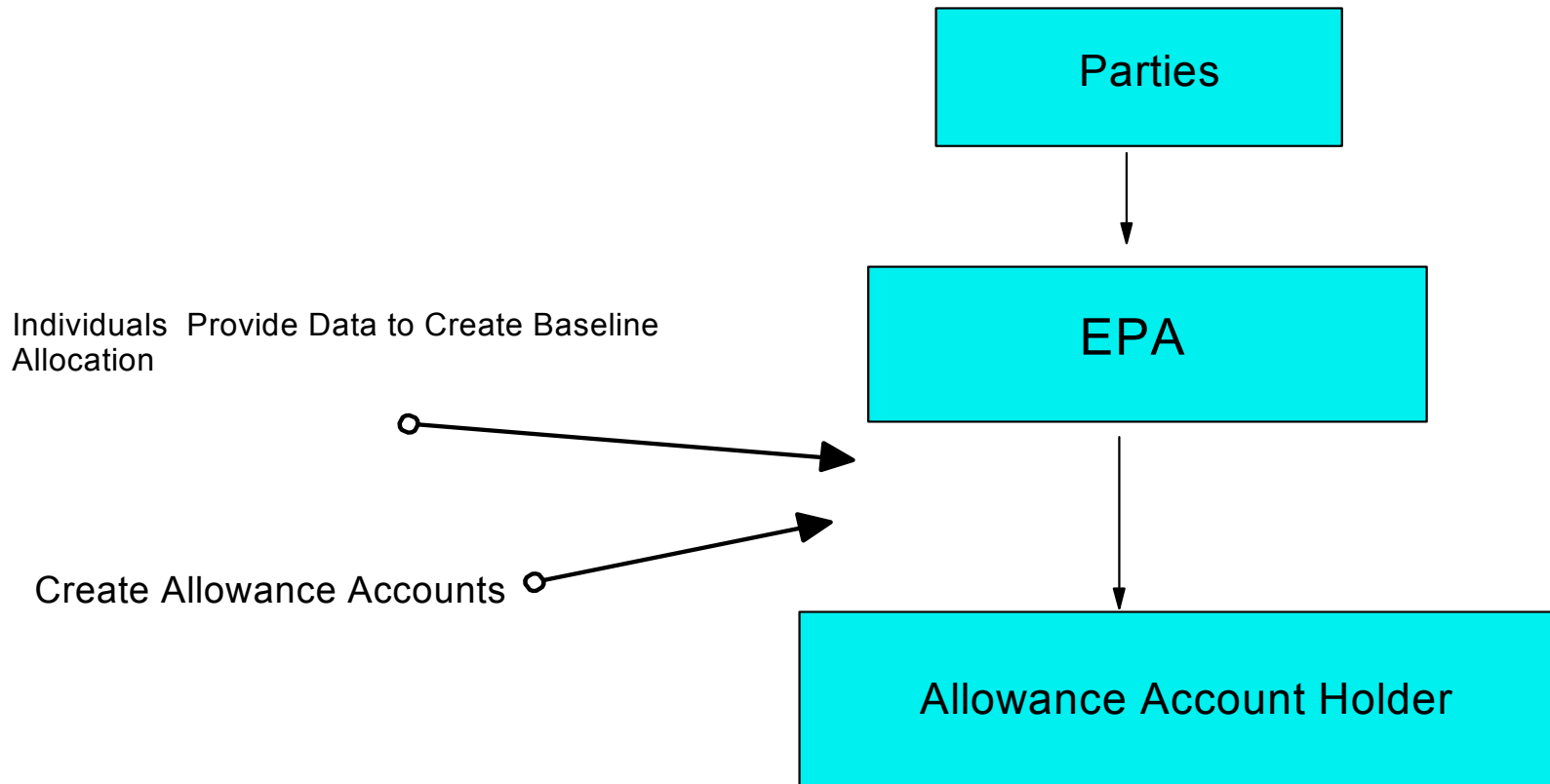
Distribution of Revenue

- Revenue from auction to US Treasury; Users still have to pay P/I to buy material

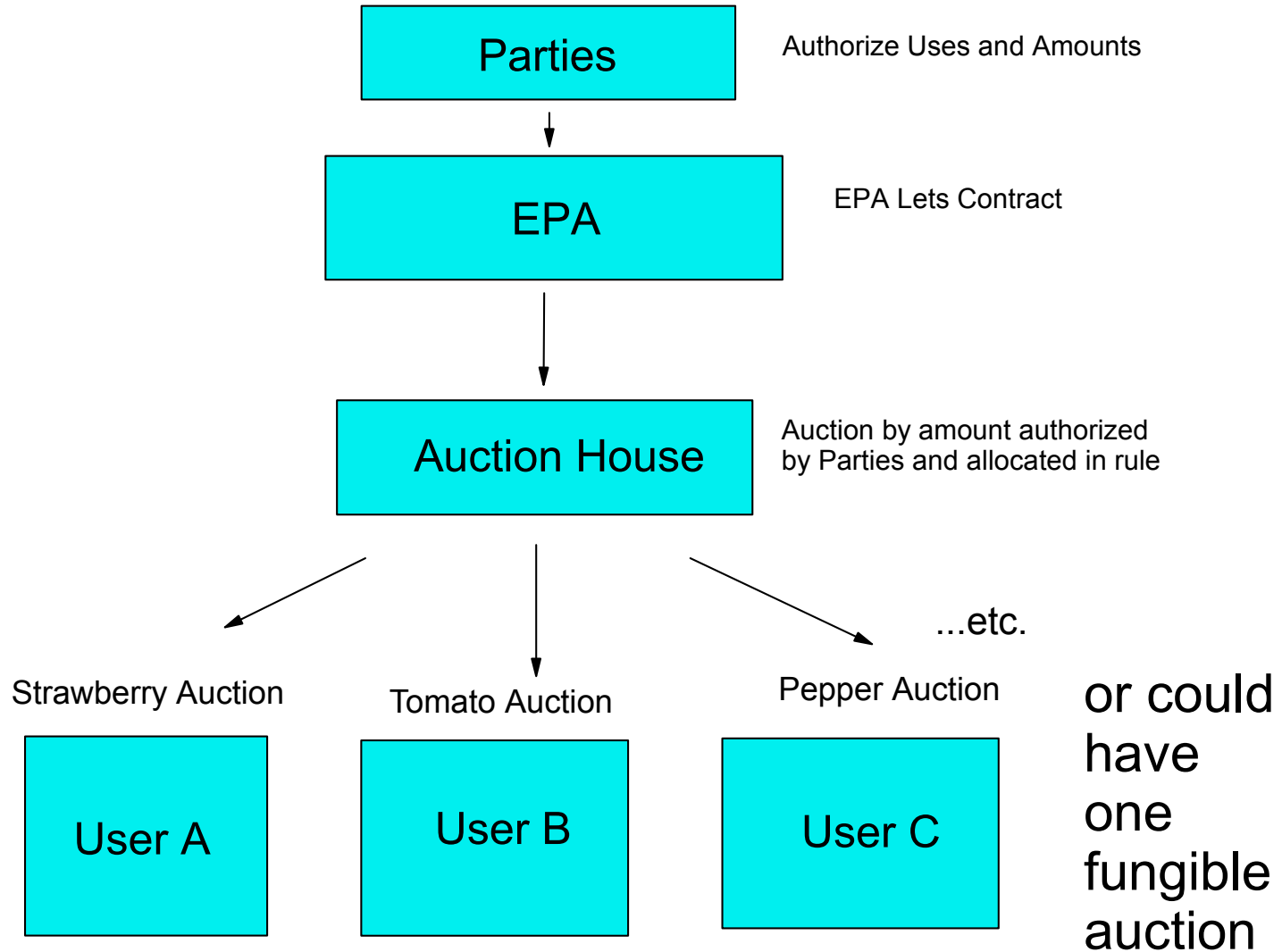
Fees

- Fees may be established by contractor under gratuitous service agreement

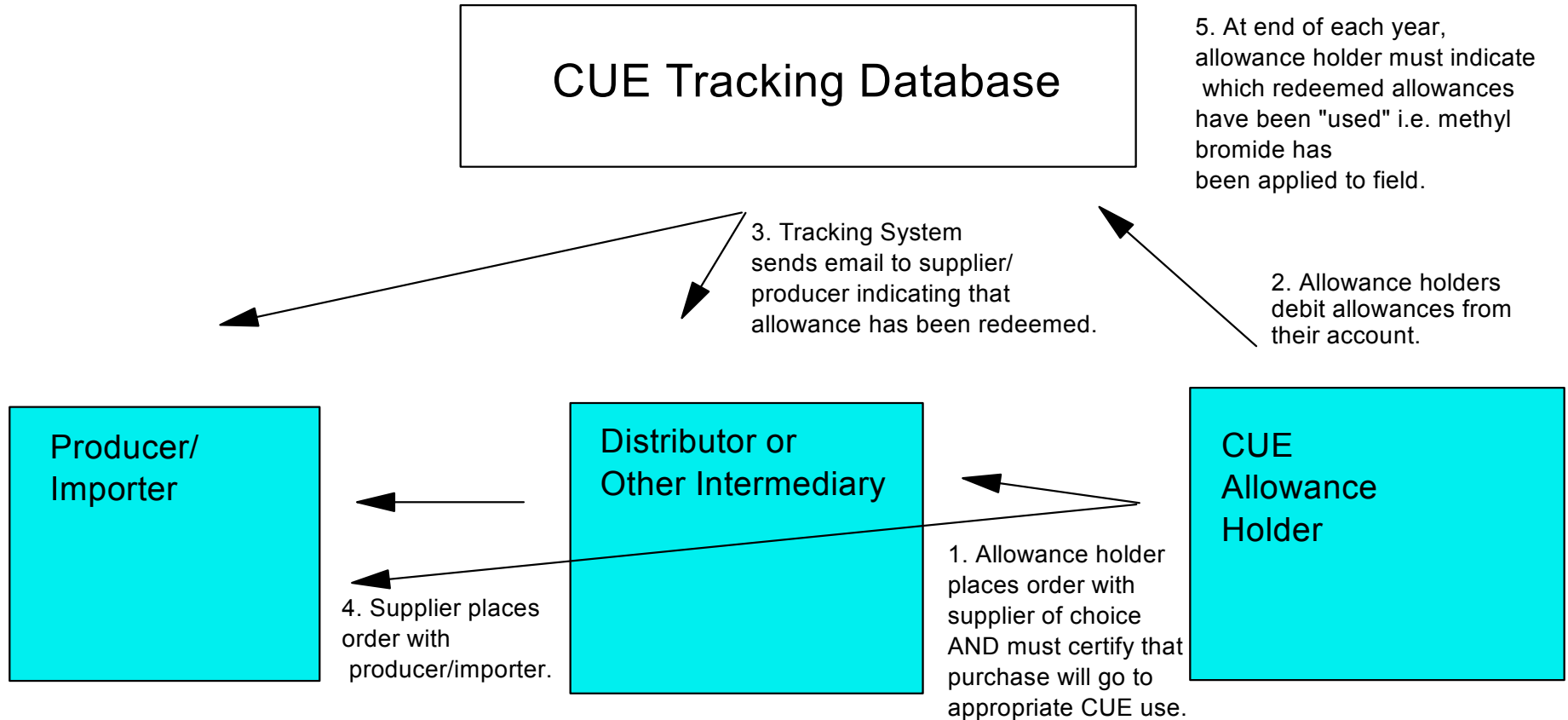
Canada-Like Model: Distributing CUE Allowances



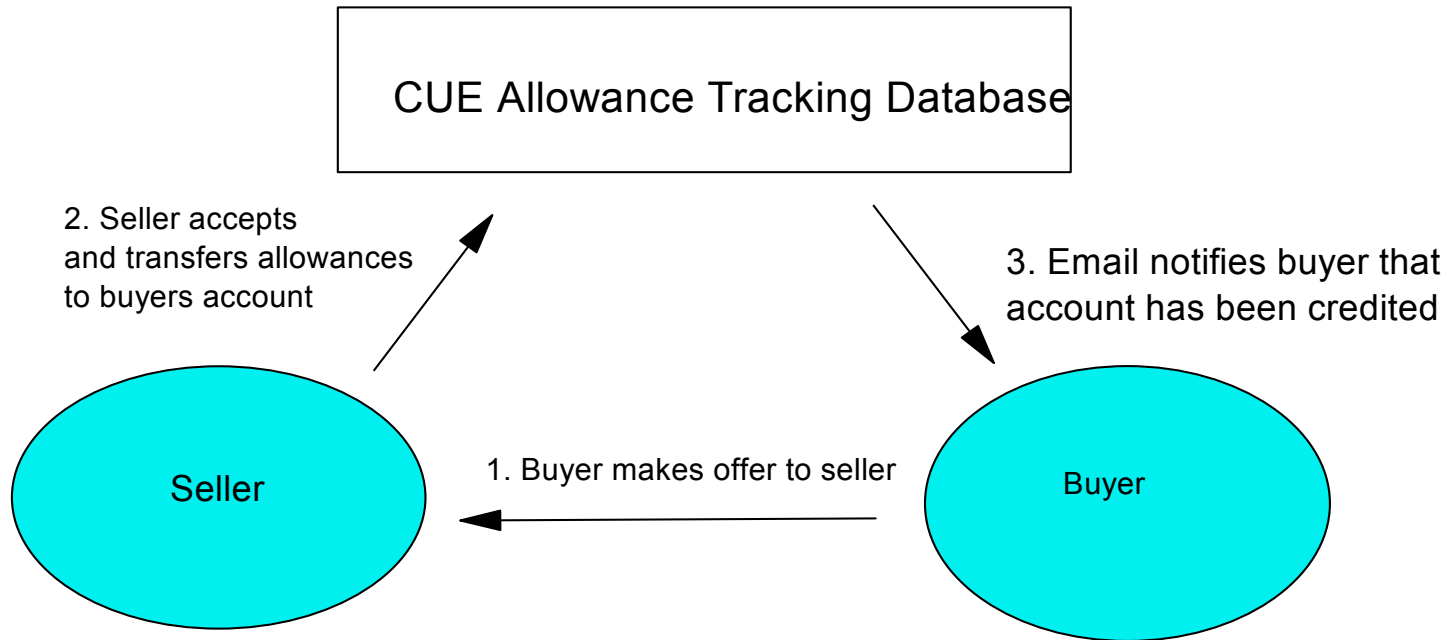
Auction: Distributing CUE Allowances



Auction or Canada-Like Models: Redeeming Critical Use Allowances



Auction or Canada-Like Models: Trading Critical Use Allowances



Telone Caps

If use is approved contingent upon Telone being unavailable due to the cap, then...

Option One:

provide your denial letter (?) from the regulatory authority to your supplier and certify that you meet the criteria for a CUE because Telone is unavailable under the cap; supplier would have record-keeping requirements.

Other Options:

????

Pros and Cons- from User Perspective

QPS-Like Model

- least new regulation, relies on market mechanisms
- least burden
- only can provide certainty at sector level, not individual operation level

QPS like plus Canada Like Model

- "command and control" approach
- lots of new burden to establish baseline
- most certainty to individual operations- all users will get at least some mbr and can buy or sell difference
- may be difficult to implement by January 2005

QPS like plus Auction

- burden more than QPS-like, less than command and control
- may reduce windfall profits to producers/importers
- provides certainty to individual operations, but have to pay for it at auction or through trading
- may be difficult to implement by January 2005

Reactions, Thoughts, Comments

For more information on the content of this briefing, please feel free to contact Hodayah Finman at EPA at 202-564-2651 anytime.